

SERVICE DATE - JUNE 12, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. MC-F-20994

NEW JERSEY TRANSIT BUS OPERATIONS, INC.–POOLING–  
ACADEMY LINES, L.L.C.

Decided: June 9, 2003

By application filed on January 27, 2003,<sup>1</sup> New Jersey Transit Bus Operations, Inc. (NJT Bus), and Academy Lines, L.L.C. (Academy), jointly request approval of a service pooling agreement under 49 U.S.C. 14302 and 49 CFR 1184.1, et seq. to pool portions of their commuter operations that extend over U.S. Highway 9 between Lakewood, NJ, and New York, NY (the Route 9 Corridor). Notice of the pooling application was published in the Federal Register on March 3, 2003 (68 FR 10067-68), inviting comments to be filed on or before April 2, 2003. No comments were filed, and the application thus stands unopposed. The application will be granted.

BACKGROUND

In 1991, NJT Bus was authorized to perform these same pooling operations with another regulated passenger carrier, Suburban Trails, Inc. (Suburban).<sup>2</sup> However, effective January 3, 2003, Suburban ceased serving the Route 9 Corridor, withdrew from the pooling agreement, and exited the market. By this application filing, approval is being sought to allow Academy to assume Suburban's place in the pooling operation.<sup>3</sup>

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<sup>1</sup> Applicants concurrently filed a petition under 49 U.S.C. 13541(a) requesting exemption from 49 U.S.C. 14302 to enable them to conduct interim operations under their service pooling agreement for a period of not more than 50 days, or such other time as the Board may direct, pending Board action on the pooling application. Applicants' request was granted by decision in New Jersey Transit Bus Operations, Inc.–Pooling–Academy Lines, L.L.C., Exemption Pursuant to 49 U.S.C. 13541 From the Provisions of 49 U.S.C. 14302, STB Docket No. MC-F-20994 (STB served Feb. 12, 2003).

<sup>2</sup> See NJ Transit Bus Operations, Inc.–Pooling–Suburban Trails, Inc., No. MC-F-19737 (ICC served Mar. 19, 1991).

<sup>3</sup> In an application filed in Coach USA, Inc., et al.–Purchase and Sale of Assets–Academy Bus, L.L.C., et al., STB Docket No. MC-F-20997 (STB served Mar. 6, 2003),  
(continued...)

NJT Bus is a wholly owned subsidiary of the New Jersey Transit Corporation (NJ Transit), an instrumentality of the State of New Jersey. NJT Bus holds operating authority in No. MC-3647 and subnumbers thereunder. It operates a fleet of about 2,025 buses and conducts interstate operations over approximately 238 bus routes, including commuter operations to and from the Port Authority Bus Terminal (PABT) in New York City. NJT Bus currently operates approximately 123 daily weekday peak period trips in the Route 9 Corridor to and from midtown Manhattan, NY. NJT Bus will provide some service on Saturdays and Sundays, but on a substantially reduced basis compared with weekday schedules.

Academy is a privately held New Jersey limited liability company, holding operating authority in No. MC-414016 and subnumbers thereunder. Applicant operates a fleet of over 600 buses rendering scheduled, regular-route intercity operations primarily in commuter services from specified origins in New Jersey to various points in New York City, including the PABT. Academy presently is a competitor in the Route 9 Corridor, serving the Wall Street area of lower Manhattan, rather than the PABT in midtown Manhattan. Under the negotiated pooling agreement, Academy anticipates operating approximately 74 daily weekday peak period trips between New Jersey points and the PABT. Academy will operate from the gates in the PABT that are used by NJT Bus, and passengers will board and alight from buses at the same locations both in New York City and in the communities along the Route 9 Corridor.

Applicants request approval of their proposed service pooling agreement so as to permit them to coordinate their schedules and fares. According to applicants, the agreement will assist them in lowering operating costs in their Route 9 Corridor operations, more evenly distributing their load factors, increasing revenues, conserving fuel, and reducing emissions. They also assert that the agreement will improve service to commuters to and from New York City (including reducing waiting time), without impairing competition. Applicants do not intend to pool revenues or share expenses (except for the costs associated with preparing and printing public timetables showing their combined coordinated services and PABT gate and platform fees), but

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<sup>3</sup>(...continued)

Coach USA, Inc., and two of its subsidiaries, Suburban Transit Corp., and Red & Tan Tours, Inc. (the Coach applicants) and Academy Bus, L.L.C. and two of its subsidiaries, Academy Express, L.L.C., and Academy (the Academy applicants) stated that they had entered into a transaction to “swap” certain interstate and intrastate motor passenger carrier operating authorities to enhance the efficiency of their respective operations. The Academy applicants proposed transferring to the Coach applicants the “Academy Routes,” while the Coach applicants proposed transferring to the Academy applicants the “Route 9 Corridor route,” the “Suburban Atlantic City Routes,” and the “Red & Tan Routes.” Because no opposing comments were filed in response, the notice became the final Board action and took effect on April 21, 2003. Reference is made to this filing because Academy and Suburban (another Coach subsidiary) are involved in the instant proceeding.

will cross-honor their independently sold commutation tickets and will reimburse each other as required. Applicants state that, to efficiently implement the pooling agreement and effectuate the cross-honoring of tickets, they have agreed that Academy shall only charge fares on the Route 9 Corridor in accordance with fares and charges approved and directed by NJ Transit.<sup>4</sup>

Applicants assert that there is substantial competition on the pooled route to protect the public, and that the pooling agreement does not threaten to produce an unreasonable restraint on competition. According to applicants, private automobiles provide ample competition for the pooled operations on the Route 9 Corridor. Moreover, the New Jersey Coast Line and the Northeast Corridor Line are not too distant from the Route 9 Corridor, and the frequent weekday rail service which the rail arm of NJ Transit and the National Railroad Passenger Corporation (Amtrak) offer is another alternative available to applicants' passengers.

### DISCUSSION AND CONCLUSIONS

Under 49 U.S.C. 14302, we may approve and authorize the pooling agreement if we find that the pooling or division of traffic, services, or earnings: (1) will be in the interest of better service to the public or of economy of operation; and (2) will not unreasonably restrain competition. On considering the record under these standards, we conclude that approval and authorization of the proposed pooling agreement is warranted.

The proposed pooling of services by applicants will be in the interest of better service to the public and of economy of operation. Approval of the pooling agreement will allow the carriers to coordinate their schedules and fares over the involved routes for their regularly scheduled passenger bus operations. The proposal will also result in better, more convenient service to the public through reduced passenger waiting time, use of common gates and stops, and cross-honoring of tickets. The proposal will also render operations more economical and efficient by more evenly distributing load factors, reducing operating costs, increasing revenues, conserving fuel, and reducing emissions. Finally, the proposal will not unreasonably restrain competition. As the applicants point out, they encounter ample competition from other modes of transportation, including private automobiles as well as commuter rail service in the involved area. Although the pooling of services will decrease competition between applicants, it will neither reduce the availability of alternative services from other carriers or modes of transportation, nor compromise the adequacy of bus service to the public.

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<sup>4</sup> As NJ Transit is an instrumentality of New Jersey, actions by its Board of Directors to increase fares are subject to a statutory requirement that it first hold hearings to obtain the public's views.

We find:

The agreement of NJT Bus and Academy for the pooling of passenger carrier services over the Route 9 Corridor between Lakewood, NJ, and New York, NY, in the manner described in this decision will be in the interest of better service to the public and of economy of operation, and will not unreasonably restrain competition.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The pooling of services by New Jersey Transit Bus Operations, Inc. and Academy Lines, L.L.C. is approved and authorized to the extent specified in the application, the pooling agreement, and this decision.
2. This decision is effective on its date of service.

By the Board, Chairman Nober.

Vernon A. Williams  
Secretary